

# Overview of the *Disability and Social Services Regulation Amendment Act 2023*

## Information Session 1

1 May 2024

Prepared in conjunction with the Department of Families, Fairness and Housing

This summary is provided as general information only and is not legal advice. Refer directly to the latest version of the Disability Act (and other Acts as relevant) and seek independent legal advice if required.



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# Aim of the session

To inform you about:

- A new Victorian law – the *Disability and Social Services Regulation Amendment Act 2023* (the **Amendment Act**)
- To provide a high-level overview of the key changes brought about by the **Amendment Act**
- More detailed sessions will be on the 12<sup>th</sup> and 26<sup>th</sup> June.

# Key Terms

Term	Meaning
Amendment Act	<i>Disability and Social Services Regulation Amendment Act 2023</i>
Disability Act	<i>Disability Act 2006</i>
Residential Tenancies Act	<i>Residential Tenancies Act 1997</i>
Group home	A group home declared to be a group home under the Disability Act
SDA	Specialist Disability Accommodation for people with disability with high support needs. SDA may be occupied by only one person or shared with other people with disability.
SDA dwelling	SDA dwelling will be a new term under the Residential Tenancies Act. It will include SDA enrolled dwellings, as well as other types of SDA.
SDA enrolled dwelling	A dwelling that provides long-term accommodation for one or more NDIS participants with SDA funding in their NDIS plans and is enrolled with the NDIS as an SDA dwelling.

For more information about changes to residential tenancies (including the new SDA dwelling definition), please visit:

- [Disability and Social Services Regulation Amendment Act 2023 webpage](#)
- [Consumer Affairs Victoria Specialist Disability Accommodation webpage](#)

# What is the **Amendment Act**?

- The **Amendment Act** became law on Tuesday 23 May 2023.
- The **Amendment Act** makes changes to the **Disability Act** and other relevant Acts. The changes strengthen rights, protections and safeguards for people with disability in Victoria.

# What Acts does the **Amendment Act** change?

The **Amendment Act** makes changes to the:

- **Disability Act**
- **Residential Tenancies Act**
- *Disability Service Safeguards Act 2018* (**Disability Service Safeguards Act**)
- *Social Services Regulation Act 2021* (**Social Services Regulation Act**)

# Consultation

The **Amendment Act** was informed by consultations on the review of the **Disability Act**.

This included public and targeted consultations with:

- people with disability
- families and carers
- community
- disability and public sector stakeholders (incl. NDS)
- the Disability Act Review Advisory Group.

# Summary of the key Amendment Act changes

# The **Amendment Act** makes changes to the provisions for:

1. Restrictive practices
2. Compulsory treatment
3. Residential services and forensic disability services
4. Tenancy arrangements in disability accommodation settings
5. Community visitors
6. Information sharing
7. Social services regulation
8. Disability worker screening



# Restrictive practices

The **Amendment Act** made the following changes to the **Disability Act**:

- Rules for the use and authorisation of restrictive practices
- The role of the Victorian Senior Practitioner
- The existing offence for unauthorised use of restrictive practices
- A new offence for using restrictive practices where an approved Authorised Program Officer has not been appointed
- The roles of disability service providers and NDIS providers
- These changes commenced 24 May 2023

# Compulsory treatment

The **Amendment Act** promoted the rights and protections for people subject to a compulsory treatment by changing the following provisions for compulsory treatment in the **Disability Act**:

- Processes and practices for supervised treatment orders
- Rules for compulsory treatment
- These changes commenced 24 May 2023.

# Residential services and forensic disability services

The **Amendment Act** makes changes to the **Disability Act** to:

- Promote the rights and strengthen protections for people living in residential services
- Clarify the rules for residential services, group homes and residential treatment facilities (commenced 24 May 2023)
- Allow the minister to approve certain disability accommodation (commenced 24 May 2023)
- Redefine what constitutes a residential service

# Tenancy arrangements in disability accommodation settings

The **Amendment Act** makes changes to the **Residential Tenancies Act** to:

- transition residents of 'group homes' currently protected under the **Disability Act** to the residential tenancy protections under the **Residential Tenancies Act**
- expand the protections for **SDA enrolled dwellings** under the **Residential Tenancies Act** to a broader range of accommodation that meets a new definition of '**SDA dwelling**'
- providers need to offer residents of '**SDA dwellings**' a choice about the type of residential agreements.

These changes will commence 1 July 2024

# Community visitors

The **Amendment Act** changes the **Disability Act** by:

- expanding the types of settings Community Visitors can visit (commencing 1 July 2024)
- allowing the Minister for Disability to approve certain disability accommodation as visitable by Community Visitors (commenced 24 May 2023).

# Information sharing

The **Amendment Act** changes the provisions for information sharing in the **Disability Act**:

- consolidate information sharing rules
- provide a new definition of 'protected information'
- provide a new definition of 'relevant persons'
- outline when 'protected information' can be shared and who can
- receive 'protected information'
- will not affect the privacy obligations under the NDIS Act
- insert a new offence for the unauthorised sharing of protected information
- commenced 27 March 2024

# What is 'protected information'?

'Protected information' is defined as information that:

- is gained or given to a 'relevant person' in their official capacity, and
- identifies, or is likely to identify, a person that the information is about, and
- is obtained while providing disability services to a person or by a 'relevant person' using restrictive practices or implementing supervised treatment.

# 'Relevant persons' include:

A person:

- appointed (or previously appointed) to any office under the **Disability Act**
- employed or engaged under the **Disability Act**
- who otherwise provides, or has provided, services under the **Disability Act**
- who is or has been a public servant (for the purposes of the **Disability Act**)

It also includes:

- a current or former disability service provider, or a person who is or has been employed or engaged by such a provider
- a current or former registered NDIS provider that uses or has used restrictive practices or implemented a supervised treatment order under the **Disability Act**, or a person who is or has been employed or engaged by such a provider
- the Victorian Senior Practitioner.



# Social services regulation

The **Amendment Act** changes to the **Social Services Regulation Act** will ensure the new social services regulatory framework works as intended once it commences on 1 July 2024.

- While the details are out of scope of this presentation, people who are interested in those reforms can get more info at <https://www.dffh.vic.gov.au/social-services-regulation-reform>

# Disability worker screening

The **Amendment Act** makes small changes to the **Disability Service Safeguards Act** to:

- Remove the duplicate rule regarding criminal history checks for both the Disability Workers Regulation Scheme and NDIS worker screening checks
- Reduce the costs for workers registering with the Disability Workers Registration Board of Victoria (**Board**)
- Strengthen information sharing between the **Board** and NDIS Worker Screening Unit.
- These changes commenced 20 September 2023.

# Questions

# Question

What support (if any) do you need from NDS or others to understand and comply with these changes to laws in Victoria?

# Resources – Amendment Act

- To read more detailed information about the **Amendment Act** visit the [Disability and Social Services Regulation Amendment Act webpage](#)
- To view this presentation: <https://www.nds.org.au/index.php/resources/all-resources/disability-and-social-services-regulation-amendment-act-2023>
- To read the full **Amendment Act**: <https://www.legislation.vic.gov.au/as-made/acts/disability-and-social-services-regulation-amendment-act-2023>
- The [Disability and Social Services Regulation Amendment Act 2023 webpage](#) will progressively contain detailed summaries about key changes made by the **Amendment Act**, relating to:
  - Restrictive practices
  - Community Visitors
  - Residential services
  - Tenancy arrangements in disability accommodation settings
  - Compulsory treatment
  - Information sharing
  - Forensic disability services

# Upcoming information sessions on specific topics:

- **9.30-10.30am 12 June 2024**  
Changes to residential tenancy in disability accommodation and community visitors
- **9.30-10.45am 26 June 2024**  
Changes to restrictive practices and compulsory treatment
- **10.45-11.15am 26 June 2024**  
Residential services and residential treatment services

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